

Application No. 10/605,615 (KC 19,644)

Remarks:

Claims 1 through 24 remain pending in the present application. The Patent Office has rejected claims 1, 2, 4, 8, 18, 20, and 24 as being provisionally rejected under the judicially created doctrine of double patenting over various claims of co-pending US Application 10/608,164 (now US Patent 6,925,874) combined with Cacioli et al. US Patent 6,850,162. A terminal disclaimer has been submitted along with this response to overcome this rejection.

Claims 1-5, 8-21, and 24 have also been rejected under 35 USC §103a over Cacioli in view of Rix US Patent 6,419,131. Applicant respectfully traverses this rejection on the basis that the Patent Office has not established a prima facie case of obviousness.

To establish a prima facie case of obviousness using a combination of references, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art references, when combined, must teach or suggest all the claim limitations.

"There are three possible sources for a motivation to combine references: the nature of the problem to be solved, the teachings of the prior art, and the knowledge of persons of ordinary skill in the art." The level of skill in the art cannot be relied upon to provide the suggestion to combine references. Moreover, none of these sources for motivation have been enumerated in the present case as pointed out below.

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Cacioli et al. states at column 1, lines 8-9, that the Cacioli apparatus "relates to a glove containing an embedded communication device". As stated in the Background Cacioli is concerned with providing "a glove that would warn a wearer that the glove's barrier has been breached or compromised" as well as "a glove that would transmit a signal to an external receiver when the glove's barrier has been breached or compromised". See Cacioli, column 1, lines 29-35. Cacioli envisions accomplishing this by providing a glove with a sensor and microchip embedded in the glove. See column 1, lines 38-39.

A number of parameters can be detected by proper selection of the sensor and microchip. For example Cacioli states that the sensor may generate a signal "in response to a change in pressure, moisture, a chemical or electrical activity, or a chemical or electrical characteristic of the glove 10, and in particular, the barrier 11". See column 3, lines 44-47. Cacioli goes on to state that "the microchip 15 can accordingly respond to a change, or rate of change, in pressure, moisture, resistance, capacitance, electrical activity, electrical or chemical activity, or other physical parameter which may be sensed or measured and which may serve as an indicator of the glove's 10 or the barrier's 11 integrity." See column 4, lines 3-9.

In contrast Rix relates to a "glove donning apparatus for use by a person in the donning of a glove with a single hand, including the donning of elastic medical gloves with a single hand." See Rix at column 1, lines 2-8.

The nature of each problem is completely different. Cacioli is concerned with measuring and continuous monitoring of a glove during use. Such monitoring is conducted for the sole purpose of relaying information to the user as to the integrity of the glove or the glove barrier while the wearer is using the glove. Rix on the other hand is concerned with eliminating the need for an assistant during the actual

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donning of a glove. Once donned, the Rix apparatus is no longer useful. Certainly nothing in Rix suggests the need for monitoring the glove's integrity during use for any parameter whatsoever.

It is not apparent to the Applicant how the nature of these two problems is similar enough to enable one skilled in the art to combine their teachings. Neither reference teaches the solutions of the other. In addition, neither reference even identifies the problems described in the other. While the theoretical person of skill in the art is deemed to have knowledge of all existing solutions, that person is not under a similar accountability to have knowledge of unidentified needs or problems. It is not until the existence of the present invention that the problem and the particular solution used was identified.

As such the Applicant maintains that a prima facie case of obviousness with respect to Cacioli et al and Rix has not been met and the rejected claims are not obvious in view of the combination of Cacioli et al and Rix.

Moreover, should some support for combining these references actually be identified, nothing in the combination teaches "a method for measuring the effort associated with donning a glove" which forms the basis of all of the Applicant's claims. Furthermore, the term "donning effort" has been defined by the Applicant to encompass the "overall force, time, and energy used to don a glove". See page 2, line 6-7 of the application. In conclusion, the Applicant contends that both references fail to address not only the solution identified in the present application, but moreover, neither reference even identifies the problem which the Applicant seeks to resolve.

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The Applicant thanks the Patent Office for its review of this matter, for identification of allowable subject matter, and respectfully submits that the present claims are in condition for allowance and as such requests an early notice of Allowance or other favorable action. Please charge any prosecution fees including the fee for any extension of time which is due to Kimberly-Clark Corporation's Deposit Account No. 11-0875. The Examiner is invited to telephone the undersigned at their convenience to discuss any minor issues which may remain after consideration of the present amendment.

Respectfully submitted,

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CERTIFICATE OF MAILING

I, Laura L. Rubino, hereby certify that on Monday, August 22, 2005, this document is being facsimile transmitted to the United States Patent and Trademark Office Fax No. 703-872-9306.


Laura L. Rubino

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